

## CHALLENGES OF RISING LIBERAL CAPITALIST INTERVENTION IN SOCIAL LIFE

HUMAYUN RASHEED KHAN<sup>1</sup> & FALAKBUTOOL<sup>2</sup>

<sup>1</sup>Judge, Presently on Deputation as Deputy Director, Judicial Training & Research Institute, Lucknow, Uttar Pradesh, India

<sup>2</sup>Doctoral Fellow of University Grants Commission, National P. G. College, Lucknow, Uttar Pradesh, India

### ABSTRACT

We are living in a fast, competitive and small world called global village. But this global village has no characteristics of traditional villages except proximity. It would, indeed, be more appropriate to name it global materialist capitalist village with the dominance of big and small businessmen or businesswomen and investment giants. The meteoric speed of this global materialistic-capitalist village has engulfed almost every field in its fold. The only challenge appears to be faith, spirituality and religion to which it is giving serious jolts over and over again. But the challenge stands unperturbed, unharmed and unshakeable before the capitalistic-materialistic onslaughts. This article briefly discusses the present capitalist culture and the challenges which it poses before humanity. It also attempts to cover the need for reconciling conflicting zones for a better future and a better world.

**KEYWORDS:** 1. Capitalist Culture, 2. Competitiveness, 3. Commercialization, 4. Greed, 5. Liberalism, 6. Market Economy

### INTRODUCTION

It is rightly said and believed that 'change' is the law of nature and no rational being world dispute it. But the major issue is that change as a part of law of nature is subject to law of nature' or not! Some believe that 'change' as a part of law of nature can go limitless and subject the law of nature to change itself which is logically incorrect. No change could ever be so pervasive as to change the law of nature itself because had it been so, the natural order would have changed thousands of time ever since the beginning of human appearance on this beautiful planet. Not only natural order but even human history is opposed to such an approach.

The reality of the present world is that it is a capitalist world and dominant culture is the capitalist culture. The liberal capitalist culture has influenced modern mind to a great extent and now it has started making inroads in the natural order as well which has been opposed by the circles of faith in the public square resulting in serious debates as to the limits of capitalist culture and its intervention in social life. Capitalism, indeed, is a social formation in which processes of capital circulation and accumulation are hegemonic and dominant in providing and shaping the material, social and intellectual basis of social life (David Harvey, 2014, 7). History shows that the Enlightenment society of either classical or revisionist style, does not pay required attention to the issue of social trust as rationality is not a matter of trust but of clear demonstrability.

In fact, capitalism is a system based on peculiar form of class Society operating in its own calculus. Like the previous class societies it involves a minority section of society grabbing the surplus created by the hard work of the rest of

society (Chris Harman, 2004; 1). Market with its invisible hand is at the centre-stage of capitalist economic system. It is always in control, always infallible, and always to be obeyed. Market requires demands, punishes and restructures society's production, distribution and survival across the globe (John McMurtry, 1999; 37).

The development of scientific method in sixteenth and seventeenth centuries made possible progressive conquest of nature. The modern Scientific and technological developments have made possible limitless accumulation of wealth and satisfaction of an ever-expanding set of human desires. It also results in an increasing homogenization of all human societies, regardless of their historical origins or cultural inheritances (Francis Fukuyama, 2006; XIV). It is true that the technology turns nature into assets but it is also a fickle friend as it can take away value or add it. For natural assets actually to be valuable in competitive struggle, their ownership must be regulated (Paul Collier, 2010; 4-5).

In fact, industrial revolution was driven primarily by technological innovation which led to the most profound time of transportation our world has ever seen. Factories, mass production, railways and mass transportation together paved the way for modern life (Erik Brynjolfsson& Andrew McAfee, 2014; 6). The intellectual basis of capitalist culture is that all countries undergoing economic modernization must increasingly resemble one-another. The urge for homogeneity of culture is a prominent aspect of capitalism as it gives a solid base to demand and supply in the most vociferous manner.

The basic themes of the growing market culture is driving States towards centralization, Urbanization, replacement of traditional social Organizations such as tribe, sect, and family in the name and on the basis of efficiency and rationality and propagation of Universal education for citizens (Francis Fukuyama, 2006; XV). The purpose, indeed, is to link these societies with one another through global markets and provide a smooth path for spreading a Universal consumer culture.

Undoubtedly the market economy has pushed stock markets to new heights, attacks government social spending, and even transforms social order overnight. Modern free markets work very well for some, not for most. In the process, society as a whole gets subjugated to the requirements of those who control market (AseemShrivastava&Ashish Kothari, 2012; 3). The hegemonic postures of market economy have become so pervasive that it is considered always right and is no more resistible than the laws of physics, and has created an impression that any deviation from its rule must inevitably end in disaster (John Mc Murtry, 1999; 38).

This arrogance of the market economy and market society is opposed to civilization which is a power to renounce and a control over selfishness, individual and corporate and also aspires for peaceful co-operation ( S. Radhakrishnan, 2006; 67). Trust and invitations to trust were associated with irrational and oppressive systems in pre-modern period. Religious faith sustains the possibility of talking intelligently about what some had called 'the solidarities we did not choose'. Religious discourse, indeed, is neither pro-nor anti-Enlightenment in the usual sense (Rowan Williams, 2012, 123).

## **INDUSTRIALISATION, CAPITALISM AND CHANGING SOCIAL DYNAMICS**

The march of industrialisation was not new but it was pervasive and deep rooted in its effects. The process of industrialization, therefore, had immense transnational effects that no country was in a position to avoid. The effects were so massive and powerful that it even covered culture and expectations, biodiversity, climate, oceans and atmosphere.<sup>1</sup> Capitalism spread gradually on global map and has now become a world system. It is, indeed, Europe which invented

---

<sup>1</sup> Thomas Pogge, Global Justice: Seminal Essays (United States: Paragon House, 2008), p. xxiii.

capitalism and subsequently it began interfering with the normal evolution with other continents. The truth is that it was not destined to be only a European phenomenon.<sup>2</sup> Soon Britain was the metropolis of capitalism and landlordism everywhere.<sup>3</sup> Great Britain is the motherland of capitalism as it first developed in 18<sup>th</sup> century Britain. Then it moved to northWestern Europe and North America.<sup>4</sup>

The concept of capitalist civilization is legitimate one as capitalism is more than an economic system and reflects a way of life. The touchstone of capitalist system is private ownership of means of production and market economy. William Kapp puts it beautifully by saying that 'capitalism must be regarded as an economy of unpaid costs'.<sup>5</sup> In the pre-capitalist societies, the economy was generally local and self-sufficient, each family produced just about what it needed, supplementing its simple needs with some barter or exchange operations in a primitive local market.<sup>6</sup> In such societies, custom and usage dictated what goods and services were worth, and there were many persons who could not compete due to their exclusion from certain occupations.

In contrast, the market economy of the capitalist system is based on specialization of labour. Each person supplies only a very small part of his needs through his own skills and labours. The products or services are designed not for the producer's own household, but for markets.<sup>7</sup> Market economy is governed by the law of supply and demand. Free individuals make their interest, experience, and intelligence. The competitive freedom in the market is associated with trade and occupation, contract, property and profit-making.<sup>8</sup>

The Industrial Revolution which originated in England and Scotland in the mid- eighteenth century signalled a turning point in European societies by causing massive social change. It lead not only to division of labour but also caused a separation of home and workplace. Industrialism is undoubtedly associated with capitalism.<sup>9</sup> Completion of the technological reality would not only be the prerequisite, but also the rationale for transcending the technological reality. It is interesting to mention that scientific rationality got translated into political power during the advanced stage of industrial civilization.<sup>10</sup> But capitalism with its transformational zeal replaces the traditional relation in which power is the source of wealth with the reverse relation which makes wealth the source of power. Consequently, it led to development of productive forces to an extent never known before in history.<sup>11</sup>

However, the tragedy of capitalist system is that it concentrates on a single human value, that is, individual liberty which comes at a very heavy price that it allows the economically strong segments to impose their laws on others making individual liberty completely illusory value for the majority.<sup>12</sup> Tragically liberty becomes a casualty in the name of liberty itself. This individual centric approach neglects the value of social institutions such as marriage, family and culture as it overemphasises individual liberty leaving other values such as equality, fraternity and multiculturalism aside. The result of

<sup>2</sup> Michael Sandel, *Justice: What's The Right Thing to Do?* (New Delhi: Penguin Books,2010), p. 222

<sup>3</sup> Eric Hobsbawm, *Revolutions* (London: Abacus, 2007), p.148

<sup>4</sup> William Ebenstein, *Today's ISMS*, Prentice Hall, Inc Englewood cliffs, N. J., Third Edition., p. 161

<sup>5</sup> William Kapp, *The Social Costs of Private Enterprise* (Cambridge: Harvard University Press, 1950)

<sup>6</sup> Ibid, 160

<sup>7</sup> Ibid

<sup>8</sup> Ibid. 163

<sup>9</sup> Montserrat Guibernav, *The Identity of Nations* (Cambridge: Polity Press, 2007), p. 97

<sup>10</sup> Herbert Marcuse, *One-Dimensional Man* (Special Indian Edition: Routledge Classics, 2012), p.235

<sup>11</sup> Samir Amin, Giovanni Arrighi, Andre Gunder Frank & Immanuel Wallerstein, *Transforming the Revolution* (Delhi: Aakar Books, 2006), p.54

<sup>12</sup> Ibid, pp-54-55

such a unidimensional perspective is that it paves the way for the emergence of a unique capitalist culture which transgresses all reasonable limits.

## THE CAPITALIST CULTURE & SURPASSING LIBERAL LIMITS

The Renaissance brought almost complete breakout from the dominant metaphysical preoccupation of the medieval world. It opened the door for twofold radical transformation which shaped the present world. This new world freed itself from the metaphysical domination and laid the material foundations for the fertile growth of capitalist society and capitalist culture.<sup>13</sup> The effects of industrial society had been so pervasive that it transformed the metaphysical into physical, the inner into outer, the adventures of mind into wonders of technology.<sup>14</sup>

The influences of humanism took on further aspects with the philosophy of the Enlightenment and these philosophers were not only influenced by but materialism fiercely defended materialism. Materialism, indeed, is a dogmatic philosophy put forward by Greek thinkers.<sup>15</sup> The Materialistic foundations of Enlightenment philosophy first disassociated ethics from religion by propagating the idea that ethics is independent of God. The ethics of Enlightenment thinking may or may not be of religious inspiration. In the age of Enlightenment, God is present for those who credit him as the cause for emancipation but He disappears when this inspiration is only seen to be natural.<sup>16</sup> It was the beginning of a long story of detachment of faith from human life and public square.

In fact, the detachment of ethics from religious inspirations by the enlightenment intellectual stalwarts solidified materialism as the foundation of modern thinking and social life. It gradually paved the way for the idea that human beings are not responsible for the consequences of their acts leading to the disappearance of ethics from the human life and their routine affairs.<sup>17</sup> The enlightenment thinking, indeed, reconstructed the 'reason' itself in its own fashion which led to 'reason' being surrounded by fear, greed and violence in which trust became the ultimate casualty.

The modern man, most often called rational being found a fundamental logic in the statement that 'we must compete harder' in the global market's money sequences. In fact, the call to societies to prove themselves in the 'tough new global competition' relates to a very primitive impulse which imagines itself to have won its individual, group and species placed in the kingdom of life by 'life or death competition'.<sup>18</sup> This primitive concept of 'life and death competition' nurtured by global capitalist system in the most forceful manner is actually a maker of fascisms of all kinds. The philosophy that 'succeed or perish' in the brutal global competition is not far off Hitler's call that 'Humanity as a whole must flourish. Only the weak and cowardly will perish'.<sup>19</sup> Unfortunately, this 'life-death competition' and 'more and more money' sequence paves the way for a vicious cycle of greed, fear, violence and breach of trust plundering this beautiful planet in the worst form and manner.

The second half of the twentieth century paved the way for the growth of a new school of thought called "libertarian theory of rights" favoring unfettered markets and opposing government regulations in the name of human

<sup>13</sup> Samir Amin, Eurocentrism (New York: Monthly Review Press, 1999), p. 151

<sup>14</sup> Supra note.10, pp.238&239

<sup>15</sup> Harun Yahya, Fascism: The Bloody Ideology of Darwinism (New Delhi: Good word Books), p.31

<sup>16</sup> Supra note. 13, p.51

<sup>17</sup> Ibid

<sup>18</sup> John McMurtry, The Cancer Stage of Capitalism (London: Pluto Press, 1999), p. 255

<sup>19</sup> Ibid

freedom.<sup>20</sup> The central claim of libertarians is that each individual has a fundamental right to liberty to do whatever he wants with the things he owns so long as other people's rights are respected.<sup>21</sup> It is to be recognized that control of opinion is the foundation of government, from the most despotic to the most free societies but it certainly plays more vital role in more free societies as obedience cannot be maintained by the lash in these societies.<sup>22</sup>

In fact, the heart of libertarian thinking is materialism in its most potent form and as such it entirely disregards the moral element in law and policy. Market, ambition, self-interest and greed lie at the heart of materialism which had given way to market-driven societies in different parts of the world gradually creating an intellectual empire of its own.<sup>23</sup> In such market-driven societies, ambitious people are expected to pursue their interests vigorously, and the line between self-interest and greed often blurs.<sup>24</sup> Mahatma Gandhi is reported to have said that there is enough on this earth to meet the needs of all, but not the greed of all.<sup>25</sup>

The philosophy of libertarianism emerged in opposition to welfare state. But there are many proponents of welfare State who hold libertarian views on controversial issues such as gay rights, reproductive rights, freedom of speech, and separation of church and State.<sup>26</sup> During 1980s, libertarian ideas found vociferous expression in the pro-market, anti-government campaigns of Ronald Reagan in United States and British Iron-lady Margaret Thatcher in U.K.<sup>27</sup> In the intellectual circles, libertarianism has made its foes as friends and at the same time created enemies out of its friends.

## IMPEDING MORAL VALUES & COMMERCIALIZING HUMAN BODY

Market economy knows no limits and it runs at the touchstone of buying and selling capacity in the market. Whole human being or body parts are also commoditized in the modern market. Some things are bought and sold openly while some other secretly. It is, indeed, horrible to know that a lucrative and deeply secretive trade in human bodies and body parts is going on in most of the developing countries from last few decades. Rich nations of the West make demand and poor developing countries make supply. Morality, equality and freedom are crushed between this demand and supply chain of market economy.

The developed west needs great volumes of materials to supply its top medical schools for developing in its students a solid understanding of human anatomy. We may believe that our bodies are sacred and above the hard logic of the market yet the sale of human parts is booming.<sup>28</sup> Libertarians might justify this hard logic of market in human bodies and body parts on the ground of self-ownership and free choice. When I own my body, I may sell it or sell some of the body parts on my free will when alive and anyone else could sell whole of the body or body parts when I am dead.

In Egypt, India, Pakistan and the Philippines, entire villages sell organs, rent wombs, and give away rights to their bodies after death not only under duress, but also in mutually agreeable transactions. Middlemen who deal in human parts-

---

<sup>20</sup> Supra note.2, p. 59

<sup>21</sup> Ibid, pp. 59-60

<sup>22</sup> Noam Chomsky, *Hegemony or Survival: America's Quest For Global Dominance* (New Delhi: Penguin Books, 2004), p.7

<sup>23</sup> Humayun R. K., *Ethical Dimensions of the Commercialization of Social Life*, *International Journal of Advance Research* (3013), Vol. I, Issue. 10, pp.712-713

<sup>24</sup> Supra note. 10, pp. 15-16

<sup>25</sup> Y. V. Reddy, *Global Crisis, Recession and Uneven Recovery* (New Delhi: Orient Black Swan, 2011), p.71

<sup>26</sup> Supra note.2, p.61

<sup>27</sup> Ibid

<sup>28</sup> Scott Carney, *The Red Market* (Gurgaon: Hachette India, 2011), pp 2&3

often hospitals and government institutions, but sometimes the most notorious criminals buy the lowest possible price while assuring buyers that the parts come from ethically valid sources. Although procurement is sometimes abhorrent, the final sale is often easy and usually sanctioned by the implicit moral sanction of saving human lives. The gruesome crimes are covered in the veil of altruistic ideals.<sup>29</sup>

## **FREE CHOICE & CURRENT DEBATES: CONSENSUAL SEX, PROSTITUTION & CRIMINALIZING SEX BUSINESS**

There is no doubt that libertarian philosophy is a dominant ideology in the present day debates in the market and information driven societies the world over. In the Bentham's hedonistic calculus of 'pleasure and pain', lies the intellectual base of libertarian philosophy as it strongly believes in total freedom, ownership of self and moral detachments. They, therefore, vehemently oppose the coercive force of law to promote notions of virtue or moral convictions of majority. They argue that prostitution may be morally objectionable to many people, but that does not justify laws that prevent consenting adults from engaging in it.<sup>30</sup> In a way, they support adults indulging in physical pleasures and prostitution on the basis of consent.

But nobody would deny that in a large number of cases in different parts of the world, women enter in prostitution involuntarily. Germany has turned into a giant brothel and even a destination of European Sex tourism.<sup>31</sup> In Germany about 400,000 prostitutes are catering to 1 million men a day. The libertarians' would justify their involvement in prostitution on the basis of consent. But are they a part of the prostitution business voluntarily? It appears that girls from poor villages in Romania and Bulgaria might have been forced, tricked of, seduced to come to Germany. Once there, they are trapped as Frischfleisch (fresh meat), perhaps because they owe money to their traffickers or fear harm to their families at home.<sup>32</sup>

Now let us look towards France which is criminalizing buyers of sex as its National Assembly had voted to make prostitution purchase illegal. The fine was set at € 1,500, doubled if repeated. The Bill is expected to be presented and passed in French Senate in June 2014. The profile of sex workers in this country has undergone a drastic change.<sup>33</sup> Twenty years ago, 20 percent were foreigners. Today, 90 percent are trafficked into France from Eastern Europe, Africa, South America and China, mostly by prostitution rings. It is a system that generates \$40 billion a year, benefitting mainly those who are trafficking people and drugs.<sup>34</sup> France has actually imitated the penalizing element in its law from Sweden.

When we turn to India, current laws on prostitution are quite ambiguous. It is neither legal nor illegal. It is tolerated when sex workers practice it within 200 yards of a public place.<sup>35</sup> The Survey of the Ministry of Human Resource and Development reveals that prostitution is increasing in India. Of most of the uneducated rural girls who are forced into this traditional profession, 60 percent belong to Scheduled Castes, Scheduled Tribes or Backward classes and two-thirds of prostitute families' live below the poverty line. Even children of Sex workers become victims of sexual abuse.<sup>36</sup>

---

<sup>29</sup> Ibid. p.6

<sup>30</sup> Ibid, p.60

<sup>31</sup>The Indian Express, 'A giant Teutonic brothel' (Selections from The Economist Newspaper Limited 2013, November 18, 2013)

<sup>32</sup> Ibid

<sup>33</sup>ShombitSengupta, 'The legalities of prostitution,' The Indian Express, 8<sup>th</sup> December, 2013

<sup>34</sup> Ibid

<sup>35</sup> Immoral Traffic (Prevention) Act, 1986

<sup>36</sup>Op cit note. 63

The flesh trade is booming in India in places, one would not easily imagine such as Puducherry which is said to be a spiritual haven. A recent NDTV report states that it is impossible to find hotel space in Puducherry because of its spell-binding dance bars. At a cost of just Rs.250-300, in small rooms holding up to 300 high-spirited men, women enter wearing shawls around them. On local music called *gannapaatu*<sup>37</sup>, the women dance and once in a while take off the shawl around them. Every night, hotels earn up to Rs. 105 lakhs with about three illegal nude dance shows. The NGO's in the city claim that the women involved are from neighbouring States and are held against their will by the highly organized sex trade.<sup>38</sup>

Moreover, except for call girls and escort girls who choose to sell their bodies or live the high life with temporary partners, the majority of sex workers experience the humiliation, harassment and perverse violation. In such a scenario, does the libertarian call for consensual sex hold water? Can a compulsive consent under inescapable circumstances valid? Does mere consent absolve the responsibility of State to protect human rights of prostitutes? The proponents of libertarian philosophy have to answer these queries lest the support for this immoral trade and female slavery will fall flat on the ground of mere consent.

### ASSESSING MORAL AND LEGAL DIMENSIONS OF SAME SEX UNIONS

The issue of gay and lesbian unions cannot possibly be considered without entering into moral and religious controversies about the purpose of the institution of marriage and the moral status of homosexuality. The libertarians support same sex marriage on liberal grounds that individuals should be free to choose their marital partners.<sup>39</sup> They argue that to allow heterosexual but not homosexual couples to get married wrongly discriminates against gay men and lesbians, denying them equality before law. Consequently, they plead for same sex unions on the basis of free choice and equality before law.<sup>40</sup>

The fundamental question in this debate is that whether gay and lesbian unions are worthy of the honour and recognition which the state sanctioned marriage confers? The underlying moral question in same sex marriage is, therefore, unavoidable. The proponents of gay marriage complain that restricting marriage to heterosexual unions alone is a kind of discrimination. Opponents claim that if the State sanctions gay marriage, it goes beyond tolerating homosexuality to endorsing it and giving it a government stamp of approval.<sup>41</sup>

In fact, in the recent past, heated debates and discussions had appeared in Public Square in different parts of the world on the issue of same sex unions. Frequent public protests had been observed in some countries of European Union, Taiwan, Africa and India on the issue of homosexual unions and the attempts to criminalize such acts. European Union Countries are the champions of gay rights but their attempts to glorify such rights has placed them into hot waters in the last one year or so because they are now grappling with asylum claims of people from more than 200 countries who face punishments such as corrective rape (mostly for lesbians), torture, jail and even death.<sup>42</sup>

---

<sup>37</sup> Gaanapaatu is a Tamil version of Bollywood's item number

<sup>38</sup> Op cit note. 33

<sup>39</sup> Supra note.2, p. 253

<sup>40</sup> Ibid

<sup>41</sup> Ibid, p. 255

<sup>42</sup> Op cit.23, p. 717

The debate on gay sex got heated in India also after the Supreme Court's verdict in a case called *Suresh Kumar Kaushal v. Naz Foundation*<sup>43</sup> in which the constitutionality of section. 377 of the Indian Penal Code was upheld. The Supreme Court of India in this case delivered its judgment on well-thought reasons upholding the criminality of certain sexual acts performed by same-and Opposite-sex couples that can be classified as 'carnal intercourse against the order of nature.' The Court further observed that the acts which fall within the ambit of the section can only be determined with reference to the act itself and the circumstances in which it is executed.<sup>44</sup>

When the Supreme Court of India delivered its judgment in *Suresh Kumar Kaushal's case*, it simply performed its role as the 'guardian of the Indian Constitution.'<sup>45</sup> The Supreme Court was requested to determine the validity of Section 377 of the Indian Penal Code, 1860 which exists in the Penal Code from last more than 150 years without any protest or opposition from the people of India.<sup>46</sup> Then why has there been a sudden unrest and opposition for a legal provision which has always been there ever since the beginning of codified penal law in India?

The pertinent question, therefore, is who opposed the judgment in *Kaushal's case* and what was their reasoning? How far, their so called reasoning is 'reasonable and natural? A close scrutiny of the arguments taken by the intellectuals who opposed Supreme Court's verdict in *Kaushal's case*, would show that they are the Indian supporters of the 'libertarian theory of rights' which has transcended borders and has now reached the Asian land making its forceful presence.

The Indian libertarian representatives advance the following arguments<sup>47</sup>:

- Does it befit a liberal democracy to criminalize homosexual activity between consenting adults?
- Does it befit to be hostage to an archaic concept of natural?
- Is the criminalization not an infringement of every value we hold dear: liberty, equality, privacy, the right to life?

The proponents further argue that in a democracy, citizens can only be deprived of individual rights and freedoms if the exercise of these freedoms harm someone or endanger the national interest or security.<sup>48</sup> What is the social and national interest that necessitates depriving consenting adults of their right to engage in sexual relationships in private? They say that rationally, a relationship between two consenting adults affects nobody but themselves.<sup>49</sup> The libertarian Indian representatives also rely on abolition of anti-sodomy laws in democracies of Europe and Latin America and argue that Britain which exported anti-sodomy law into India in 1860, abolished it in its own land in 1967.<sup>50</sup>

## THE ISSUE OF PSYCHOLOGICAL COUNSELLING FOR HOMOSEXUALITY

When human activities, riding on free choice to fulfil carnal desires, flow freely they are bound to bring social and psychological disturbances. Some societies have now started treating homosexuality as an illness and alternative medicine

<sup>43</sup>(2014) 1SCC 1: (2013) 4 SCC (Cri), Civil Appeal no.10972 of 2013 (arising out of SLP (C) no.15436 of 2009).

<sup>44</sup>MenakaGuruswamy, 'Making Criminals of us all,' The Indian Express, December 13, 2013, p. 11

<sup>45</sup> Granville Austin, *The Indian Constitution: Cornerstone of a Nation* (New Delhi: Oxford University Press, 2005), p.169, State of Madras v. V. G. Rao, AIR 1952 SC 196, Daryao v. State of U. P., AIR 1961 SC 1457 at p.1461. Norshiwan Irani v. Emperor, 1935 CrLJ 718, FazalRabChoudhary v. State of Bihar, 1983 CrLJ 632 ( SC), Brother John Anthony v. State of Tamil Nadu, 1992 CrLJ 1352, Raju v. State of Haryana, (1994) CrLJ 2583 (2592)

<sup>46</sup>PratapBhanu Mehta, 'Prejudice, not Justice,' The Indian Express, December 12, 2013

<sup>47</sup> Ruth Vanita, Dear Supreme Court, read the Kama Sutra, The Indian Express, December13, 2013, p. 11.

<sup>48</sup> Ibid

<sup>49</sup> Ibid

<sup>50</sup> Ibid

or even electrotherapy is administrated to create an aversion.<sup>51</sup> Shenzhen, a southern Chinese city, is running Chuan-Wei Psychological counselling centre for homosexuals. In 2011, Lin Yan attended the centre and spent \$ 1,700 for three months conversion therapy.<sup>52</sup>

In fact, China declassified homosexuality as a mental disorder in 2011. There are many clinics in China which offer counselling to gay people and services which are often touted as a cure. Elsewhere in the world, therapies that purport to treat gay, lesbian or bisexual people into heterosexuals have been discredited. The American Psychiatric Association says undergoing such treatment risks depression anxiety and self-destructive behaviour. The United Kingdom Council for Psychotherapy calls the practice unethical.<sup>53</sup>

The opponents of same sex or bisexual relationships call it not only unethical but have now started treating it as an illness while the proponents not only discard the illness theory but also say that such clinics are offering illegal services. The fact however, remains that whether it is termed illness or not, homosexuality or bisexuality has created problems of its own kind in different societies over last few decades. The quest for easy money and the rising human desire in majority of the people for more and more money has created huge space for material and intellectual theft. The culture of piracy is another paradox of modern crony capitalism that needs to be effectively tackled.

## PUBLIC INTELLECTUALISM IN INDIA

The present rampant commercialisation and commodification has affected public intellectuals to a large extent. Public intellectuals are now not just morally and rationally driven voices. They are not to be romanticised as Socratic figures rendered outcast and embracing martyrdom for the sake of higher truths. In fact, they are creatures determined by demand and supply market forces. Richard Posner beautifully suggests that public intellectuals have to be seen as “symbolic goods” in the market place, good, the principal content or function of which in expressive or informational: art, propaganda, journalism and scholarship are all examples. These intellectuals are ‘information goods’, ‘solidarity goods’ as well as ‘entertainment goods’.<sup>54</sup>

There is no denying the fact that the media has been substantially growing since 1990s. With print media, television, websites, blogs, twitter and a competitive publishing industry, there is a growing demand for opinions and comments on matters of public concern. There is certainly a growing demand on the Internet for alternative media, and blogs are actually becoming influential platforms for critique and dissent.<sup>55</sup>

We need to mention what is called as “ethical appeal” in Aristotelian philosophical milieu as the same is required in the present public intellectual domain. Ethical appeal, in fact, is an appeal to authority, credentials and character rather than the merit of the argument. This raises two important issues. One is that we need to understand the special nature of the neo-liberal demand in order to think about the constraints of supply in this arena. In fact, the nature of this demand is so highly commoditised and overwhelmingly materialistic that sometimes the intellectual class resists acting in bad conscience, refusing to be objectified by such a market. The demand for intellectuals in the present media matrix is not for critical, radical and pragmatic politics but it is for chickaree, trickery and gimmickry which unfortunately are the demand

<sup>51</sup> Ibid

<sup>52</sup> Ibid

<sup>53</sup> The Indian Express, Gay daughter makes plea to tycoon dad, Associated Press, Hong Kong, January, 29, 2014

<sup>54</sup> Rajgopal Saikumar, The Rise of the liberal-right intellectual, The Hindu (24<sup>th</sup> February 2015), p.7

<sup>55</sup> Ibid.

of the time and so is the supply.<sup>56</sup>

## THE CHALLENGE OF RECONCILIATION

There are internal as well as external conflicts in human affairs. The same body can be split between regulating codes within itself.<sup>57</sup> The Capitalist call for global market competition is now leading the countries of the world into progressively deregulated chaos.<sup>58</sup> Capitalist ruling classes are driven by economic competition within and between themselves which leads to not merely economic growth but to compulsive accumulation as well. This compulsive accumulative impulse has enabled capitalist system that two and a half centuries ago controlled only small parts of north Western Europe to engulf the entire world today.<sup>59</sup>

There is an old adage that 'as you sow, so shall you reap.' If the mankind sowed 'greed and impulsive lust,' it was bound to reap fear, violence and distrust. The Enlightenment Thinking in its quest to sidetrack religion, first propagated that ethics is independent of God and then gradually pushed 'ethics to disappear' from human affairs by stating that human beings are not responsible for the consequences of their acts.<sup>60</sup>

The continuous human search for persistent mental and physical enjoyment gave way to a large number of dance bars, high society call girls, brothels and live- in- relationship, to reduce stress and get ready for accumulation of wealth day and night, mostly in and around the major cities of the world. The days were utilized by majority to accumulate wealth while nights were used by others to extract easy money from them.

When ethics is detached from human life, animal instincts such as self-centeredness & physical lust come at the forefront of human dealings. It is, indeed, in the animal kingdom that ethics has no place and it is in this kingdom that animals are not responsible for the consequences of their acts. Did not the Enlightenment Thinking pave the way for animal kingdom like atmosphere by giving the call that human beings are not responsible<sup>61</sup> for the consequences of their acts? Did not the propagation of the view that 'nothing is good or bad but thinking makes it so'<sup>62</sup> pushed goodness or badness itself away from human affairs?

The proponents of materialistic capitalist culture associate religions with tribalism and backwardness and perhaps aspire to create a religion less or faithless world. They argue that the evidence that lies in great abundance points to organized religion as an expression of tribalism.<sup>63</sup> In times of change and danger, their personal faith promises stability and peace. When faced with a threat and competition from outside groups, the myths assure the believers that they are paramount in the sight of God. Religious faith offers the psychological security that uniquely comes from belonging to a group, and divinely blessed at that.<sup>64</sup>

---

<sup>56</sup> Ibid.

<sup>57</sup> S. Radhakrishnan, Foundations of Civilization: Ideas and Ideals (New Delhi: Orient Paperbacks, 2006), p.73.

<sup>58</sup> Samir Amin, The World We Wish to See (Delhi: Aakar Books, 2009), p.7

<sup>59</sup> Chris Harman, The rise of capitalism, Issue: 102, International Socialism: The rise of capitalism, posted: 29 November, 2004, p.1

<sup>60</sup> Samir Amin, supra note.13, p. 51

<sup>63</sup> Supra note.13, p.11

<sup>62</sup> William Shakespeare, Hamlet Act 2, Scene, 239-251

<sup>63</sup> Edward O. Wilson, The Social Conquest of Earth (New York: Liveright Paperback, 2013), p.258

<sup>64</sup> Ibid, p.266

It is a hard fact that capitalism is a world system and its victims can effectively face its challenges only if they also stand organized at the global level.<sup>65</sup> Human societies may reap the benefits of capitalism only when this economic system is put to reasonable limits and it withdraws itself from social life and religious affairs ( does not aspire to make this world Godless). It must also stop challenging and re-defining the fundamental values such as ethics, liberty, egalitarian values and human happiness which is though very difficult yet not impossible.

## CONCLUSIONS

To call capitalist system a demon is certainly an unfair assessment which most of the left wing intellectuals actually do but again it would also be too far to accept capitalism as the mark of development, prosperity and happiness as a lot of unhappiness and emotional suffocation has come out of crony capitalism in action. Materialistic ideology, expansion of power, mechanistic life, free choice and absolute individualism has created a dangerous scenario for human peace and happiness. Technological modernization and economic growth detached from ethical values are bound to create social instability. Mechanistic modern life ignores vital issues of dying species, eroding cultures and distorted languages.

In fact, an institutionalized hazardous corporate totalitarianism has developed in many parts of the world over last few decades and has now initiated war with the people and the earth. The increasing encroachment of consumerism and commercialization of social life is a serious matter of concern for the whole humanity as it is disturbing important social and public institutions such as family, marriage, education and health in different parts of the world in general and developing countries in particular. Undoubtedly, economic growth and development has little meaning when it is concentrated in few hands while millions die due to poverty, ill health and emotional suffocation as an offshoot of economic affluence.

A large number of prominent intellectuals from Enlightenment Thinking down the line to the post-modern thought might have been struggling to make this world a Godless place but they cannot overlook the positive and unifying influence of faith on social and public institutions in different parts of the world. Faith has also been able to prevent social instability and social unrest to a large extent as the faithful followers of religion keep themselves involved in the routine religious activities, rituals and charitable work focusing on the life hereafter. Had they been absent or had it been a Godless world (although impossible)?, the strife would have grown to an unbearable extent.

The proponents of capitalist system should be thankful to the people of faith for keeping a very large number of humanity away from critical evaluation of the capitalist order else it would have been impossible for them to pursue and propagate capitalist ideology as vigorously as they are doing at present. The hardcore supporters of capitalist order must learn to differentiate absolute liberty from constitutional liberty, accumulation of wealth from economic prosperity, plunder from development and pleasure from human happiness so as to bring the necessary equilibrium between market economy and market society and this alone could prevent social instability and social unrest and rising emotional suffocation in different parts of the world. Wealth without peace and happiness is perhaps the most valueless thing in the world as social values, culture and ethics are vital elements in promoting harmony and satisfaction in the society.

---

<sup>65</sup>Meera Malhotra, Orient Book of Quotations (New Delhi: Orient Paperbacks, 2000), p. 86

## REFERENCES

1. (2014) 1SCC 1: (2013) 4 SCC (Cri), Civil Appeal no.10972 of 2013 (arising out of SLP (C) no.15436 of 2009).
2. Austin, G.(2005). The Indian Constitution: Cornerstone of a Nation (New Delhi: Oxford University Press, p.169, State of Madras v. V. G. Rao, AIR 1952 SC 196, Daryao v. State of U.P., AIR 1961 SC 1457 at p.1461.Norshiwan Irani v. Emperor, 1935 CrLJ 718, FazalRabChoudhary v. State of Bihar, 1983 Cr. L. J 632 (SC), Brother John Anthony v. State of Tamil Nadu, 1992 Cr. L. J 1352, Raju v. State of Haryana, (1994) Cr. L. J. 2583 (2592)
3. Carney,S.( 2011). Ibid, p.60
4. Carney,S.( 2011). Ibid, pp 2&3
5. Carney,S.( 2011). The Red Market, Gurgaon: Hachette India, , pp 2&3
6. Carney,S.( 2011).Ibid. p.6
7. Eric, H. (2007). Revolutions (London: Abacus,.), p.148
8. Gaanapaatu is a Tamil version of Bollywood's item number
9. Guruswamy,M.(2013) 'Making Criminals of us all,' The Indian Express, December 13, p. 11
10. Harman, C.(2004), The rise of capitalism, Issue: 102, International Socialism: The rise of capitalism, posted: 29 November, p.1
11. Harun Yahya, Fascism: The Bloody Ideology of Darwinism , New Delhi: Good word Books), p.31
12. Herbert, M. (2012). One-Dimensional Man (Special Indian Edition: Routledge Classics, p.235
13. Herbert, M. (2012)., pp. 15-16
14. Herbert, M. (2012).Op.cit, pp.238&239 Ibid
15. Immoral Traffic (Prevention) Act, 1986
16. Khan,H.R. (2013). Ethical Dimensions of the Commercialization of Social Life, International Journal of Advance Research, Vol.I, Issue. 10, pp.712-713
17. Khan,H.R. (2013),p. 717
18. <sup>1</sup>Malhotra, M.(2000).Orient Book of Quotations, New Delhi: Orient Paperbacks, p. 86
19. Mehta, 'P.B.(2013). Prejudice, not Justice,' The Indian Express, December 12,
20. Michael, S. (2010). Ibid,p.222
21. Michael, S. (2010). Justice: What's The Right Thing to Do? New Delhi: Penguin Books, , p. 222
22. Michael, S. (2010). op.cit, p. 59
23. Michael, S. (2010). Op.cit, p.61

24. Michael, S. (2010).Ibid, p. 255
25. Michael, S. (2010).Ibid, p.253
26. Michael, S. (2010).Ibid, pp. 59-60
27. Michael, S. (2010).op.cit, p. 253
28. Montserrat, G. (2007). The Identity of Nations, Cambridge: Polity Press, p. 97
29. Murtry, M.J. (1999),The Cancer Stage of Capitalism, London: Pluto Press, p. 255
30. Noam Chomsky. (2004). Hegemony or Survival: America's Quest For Global Dominance , New Delhi: Penguin Books, p.7
31. Radhakrishnan,S.(2006). Foundations of Civilization: Ideas and Ideals (New Delhi: Orient Paperbacks, 2006), p.73.
32. Reddy,Y.V (2011) Global Crisis, Recession and Uneven Recovery (New Delhi: Orient Black Swan,), p.71
33. Saikumar,R.J.(2015). Ibid.P.7
34. Saikumar,R.J.(2015). Ibid.P.7
35. Saikumar,R.J.(2015). The Rise of the liberal-right intellectual, The Hindu (24<sup>th</sup> February 2015), p.7
36. Samir A, (1999). Op.cit, p. 51
37. Samir A, (1999). op.cit, p.51
38. Samir A, (1999). Eurocentrism.New York: Monthly Review Press, p. 151
39. Samir A, (1999).op.cit,p.11
40. Samir A, Giovanni A, Andre G. F.& Immanuel W. (2006). Transforming the Revolution (Delhi: Aakar Books, p.54
41. Samir A, Giovanni A, Andre G. F.& Immanuel W. (2006).Ibid, pp-54-55
42. Samir, A. (2009). The World We Wish to See ,Delhi: Aakar Books, p.7
43. Sengupta,S.(2013). Ibid
44. Sengupta,S.(2013). 'The legalities of prostitution,' The Indian Express, 8<sup>th</sup> December,
45. Sengupta,S.(2013). 'The legalities of prostitution,' The Indian Express, 8<sup>th</sup> December,
46. Sengupta,S.(2013). Op cit, 8<sup>th</sup> December
47. Shakespeare,W. Hamlet Act 2, Scene, 239-251
48. The Indian Express, Gay daughter makes plea to tycoon dad, Associated Press, Hong Kong, January, 29, 2014
49. The Indian Express. (2013). 'A giant Teutonic brothel' Selections from The Economist Newspaper Limited 18<sup>th</sup> November

50. The Indian Express. (2013). Ibid
51. Thomas, P. (2008). Global Justice: Seminal Essays (United States: Paragon House, , p. xxiii.
52. Vanita, R.(2013), Ibid, p.11
53. Vanita, R.(2013), Ibid, p.11
54. Vanita, R.(2013), Ibid, p.11
55. Vanita, R.(2013), Ibid, p.11
56. Vanita, R.(2013), Ibid, p.11
57. Vanita, R.(2013), Dear Supreme Court, read the Kama Sutra, The Indian Express, December13, 2013, p. 11.
58. William K. (1950). Ibid. 163
59. William, E. Today's ISMS, Prentice Hall, Inc Englewood cliffs, N.J.,Third Edition., p. 161
60. William, K. (1950). Ibid, 160
61. William, K. (1950). The Social Costs of Private Enterprise, Cambridge: Harvard University Press,
62. Wilson,E.O.(2013). Ibid, p.266
63. Wilson,E.O.(2013). The Social Conquest of Earth,New York: Liverright Paperback, p.258